## **CLAIM AMENDMENTS**

1. (Currently Amended) A one-trip system for use in a subterranean well comprising:

a unit adapted to be run downhole into the well in a single trip, the unit comprising: a tubing hanger adapted to be mounted to one of the well and a well casing near the earth's surface;

a production tubing sealingly attached to the tubing hanger and adapted to receive a continuous medium riglessly deployed from the earth's surface;

a perforating gun assembly coupled to the production tubing; and

a screen assembly adapted to be engaged by the continuous medium to cause the release and movement of the screen assembly relative to the production tubing, wherein

the tubing hanger, the production tubing, the perforating gun assembly and the screen assembly are adapted to be run downhole as a unit, and once the unit is positioned downhole the screen assembly is adapted to be moved relative to the production tubing by a riglessly deployed continuous medium deployed through the production tubing from the surface of the well.

- 2. (Previously Presented) The one-trip system of claim 1, further comprising a packer attached to a lower end of the production tubing.
- 3. (Previously Presented) The one-trip system of claim 2 further comprising a valve located near the earth's surface and mounted above the tubing hanger to control flow of well fluids.
  - 4. (Previously Presented) The one-trip system of claim 2, further comprising: a surface-controlled subsurface safety valve located in-line with the production tubing.
  - 5. (Previously Presented) The one-trip system of claim 2, further comprising: an artificial lift device to assist in the production of well fluids.
- 6. (Previously Presented) The one-trip system of claim 5, wherein the artificial lift device comprises a gas lift mandrel or an electric submersible pump.

- 7. (Previously Presented) The one-trip system of claim 2, further comprising: an upper sliding sleeve valve mounted in-line with the production tubing above the packer.
- 8. (Previously Presented) The one-trip system of claim 2, further comprising an extension having an intermediate sliding sleeve valve mounted below the packer.
  - 9. (Previously Presented) The one-trip system of claim 1, further comprising: a selective nipple;
  - a shroud attached to the selective nipple;
- an inner string releasably mounted within an interior of the system; and a no-go nipple mounted to the shroud, wherein
  - a perforating assembly is mounted below the no-go nipple.
- 10. (Previously Presented) The one-trip system of claim 9, wherein the perforating assembly includes a perforating gun.
- 11. (Previously Presented) The one-trip system of claim 9, wherein the perforating assembly includes a firing head.
- 12. (Previously Presented) The one-trip system of claim 9,wherein the perforating assembly includes a safety spacer.
- 13. (Previously Presented) The one-trip system of claim 9, further comprising a lock to keep the inner string secured to the selective nipple.
- 14. (Previously Presented) The one-trip system of claim 9, wherein the inner string comprises a sand exclusion device.

Removal jurisdiction is strictly construed, and if federal jurisdiction is doubtful, the federal court must remand. <u>Id.</u>

## IV. Discussion

In her motion to remand, the plaintiff does not deny that diversity exists, because she is a resident of the State of West Virginia and the defendant is a resident of the State of Ohio. Rather, the plaintiff asserts that this action must be remanded to state court because the defendant has failed to prove that the amount in controversy in this case is in excess of \$75,000.00, exclusive of interests and costs. This Court agrees.

The burden of establishing that the amount in controversy exceeds \$75,000.00, exclusive of interests and costs, rests with the party seeking removal. Mulcahey v. Columbia Organic Chems.

Co., Inc., 29 F.3d 148, 151 (4th Cir. 1994). This Court has consistently applied the "preponderance of evidence" standard to determine whether a defendant has met its burden of proving the amount in controversy. This burden of proof requires the defendant to produce evidence that establishes that the actual amount in controversy exceeds \$75,000.00. See DeAquilar v. Boeing Co., 47 F.3d 1404, 1412 (5th Cir. 1995), cert. denied, 516 U.S. 865 (1995). When no specific amount of damages is set forth in the complaint, the Court may consider the entire record before it and may conduct its own independent inquiry to determine whether the amount in

controversy satisfies the jurisdictional minimum. <u>Mullins v.</u>

<u>Harry's Mobile Homes, Inc.</u>, 861 F. Supp. 22, 23 (S.D. W. Va. 1994).

In this case, the defendant argues that the amount in controversy is met because the plaintiff seeks future medical expenses for allegedly permanent injuries and seeks lost wages and compensation for an alleged loss of earning capacity. The defendant also argues that by serving on the defendant a request for admission that the claim in this case exceeds \$75,000.00, the plaintiff herself has in effect admitted that she values her claim in excess of the jurisdictional threshold. Further, the defendant argues that the Court should not consider the plaintiff's settlement offer of \$74,999.00 because it was made post-removal. Finally, the defendant argues that the plaintiff's claim exceeds the jurisdictional minimum because the plaintiff notified her underinsured motorist carrier of a potential claim even though the defendant's insurance coverage exceeds \$75,000.00.

Mere speculation cannot satisfy the defendant's burden of proving the amount in controversy by a preponderance of the evidence. A defendant seeking removal must supply competent evidence to support his contention that the amount in controversy is exceeded. Here, the defendant has failed to offer sufficient proof that the plaintiff's claims for future medical expenses, lost wages and lost earning capacity exceed the jurisdictional threshold. Although the plaintiff's complaint does not set forth